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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,395	04/27/2001	Steven M. French	AUS920010149US1	1345

7590

08/18/2004

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EXAMINER

ELAMIN, ABDELMONIEM I

ART UNIT

PAPER NUMBER

2116

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/844,395

Applicant(s)

FRENCH ET AL.

Examiner

A Elamin

Art Unit

2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, are rejected under 35 U.S.C. 102(e) as being anticipated by Aguilar et al, US.

Pat. No. 6,430,687.

3. Claims 1, 13 and 21, Aguilar teaches a method of booting at least one target device [*clients 104 of Fig. 1*] in communication with a network [*network 100 of Fig. 1*], comprising:

requesting at least one boot file from a loading device in communication with the target device [*abstract, col. 2, lines 11-28, col. 9, lines 20-26*];

executing, at the target device, a boot delay response so that the target device does not time out [*col.3, lines 11-15*]; and

receiving, at the target device, the boot file after the boot delay response is received [*col. 11, lines 25-28*].

4. Claim 2, Aguilar teaches the boot file is selected from the group consisting of:

a bootstrap program, a configuration file, a boot parameters file, and an operating system file [*abstract*].

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5. Claims 3-4, 14-15 and 22-23, Aguilar teaches evaluating whether a boot delay response should be used based on a state of network congestion [*col. 5, line 65 thru col. 6, line 3*].
6. Claim 5, Aguilar teaches the loading device is a server in communication with the target device [*network server 102 of Fig. 1*].
7. Claim 6, Aguilar teaches the loading device is a client device with a loading program in communication with the target device [*Fig. 1, col. 2, lines 10-28*].
8. Claim 7, Aguilar teaches the at least one target device is a plurality of target devices [*clients 104 of Fig. 1*].
9. Claims 8, 16 and 24, Aguilar teaches delaying at least one request for the boot file from the target device as the boot delay response [*col.3, lines 11-15*].
10. Claims 9, 17 and 25, Aguilar teaches delaying at least one response from the loading device as the boot delay response, the response comprising the at least one boot file [*col.3, lines 11-15*].
11. Claims 10, 18 and 26, Aguilar teaches altering boot parameters on the target device based on the boot delay response [*abstract*].

12. Claims 11, 19 and 27, Aguilar teaches altering boot parameters on the loading device based on the boot delay response [*abstract*].

13. Claims 12, 20 and 28, Aguilar teaches rebooting the target device after a timeout value has expired as the boot delay response [*col. 8, lines 3-8*].

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A Elamin whose telephone number is (703)305-3804. The examiner can normally be reached on MON-FRI 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (703) 308-1159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A Elamin  
Primary Examiner  
Art Unit 2116

August 14, 2004



A. ELAMIN  
PRIMARY EXAMINER